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Honorable Christopher Alston

Chapter 7

Location: Seattle

Hearing Date: December 1, 2022

Hearing Time: 9:30 a.m.

Response Date: November 25, 2022

10 UNITED STATES BANKRUPTCY COURT
11 WESTERN DISTRICT OF WASHINGTON
12 AT SEATTLE

13 In re

14 CYNTHIA ELIZABETH BLACKWELL,

15 Debtor.

Case No. 22-10102-CMA

DEBTOR'S RESPONSE TO AMENDED
MOTION FOR ORDER GRANTING
RELIEF FROM STAY AND/OR
DISCHARGE TO PURSUE INSURANCE
PROCEEDS AND REOPENING CASE IF
NECESSARY

18 Cynthia Blackwell, the Debtor in this case (hereinafter "Debtor"), responds to the
19 Amended Motion for Order Granting Relief From the Stay, relief from the discharge order and to
20 reopen the case [Dkt. No. 20]. Debtor believes the case should be reopened but objects to the
21 rest of the relief requested as outlined below.

22 **Facts**

23 The Creditor in this case, Hidalma Porcel (hereinafter "Creditor"), was notified of the
24 bankruptcy when it was filed and should have received notice from the court of the discharge
25 injunction when the discharge was entered and the case closed as that was served on her in the
26 name of the decedent Juan Porcel and mailed to her address. Thereafter and despite the notice,

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1 Creditor filed the state court action referenced in the Creditor's motion, against the Debtor
2 seeking damages from a pre-petition automobile accident. Debtor's defense counsel forwarded a
3 copy of the discharge order to Creditor's personal injury counsel and offered to pay policy limits
4 immediately. In response, Creditor's personal injury counsel refused this request, filed this
5 motion and served discovery on Ms. Blackwell's counsel from Chock Barhoum in the wrongful
6 death case filed in King County Superior Court. Debtor even filed an Answer in King County
7 and raised new claims against Creditor arising from the post-discharge violations. In response,
8 Creditor filed the current motions to reopen and for relief from the stay and discharge.

9 **Motion to Reopen**

10 The Debtor consents to reopening of the case and further believes the case should be
11 reopened for the court's consideration of the issue. No assets are to be administered so there is
12 no reason for a Trustee to be reappointed. It is entirely appropriate for the Court to reopen this
13 case and be aware of the issues that now exist before granting any relief to the Creditor. Creditor
14 violated 11 USC § 524 (a)(2) and (3) and Debtor has been damaged by being sued in state court.

15 **Motion for Relief from Stay**

16 The Automatic Stay under 11 USC § 362 terminated upon entry of the discharge order.
17 11 USC § 362 (c)(2). Even if the case is reopened, the Automatic Stay does not become
18 reinstated against the Debtor. Instead, the Discharge Injunction under 11 USC § 524 remains in
19 effect. There is no reason to grant relief from the Automatic Stay. Accordingly, Debtor objects
20 to the motion for an order for relief from the Automatic Stay.

21 **Motion for Relief from Discharge**

22 Creditor provides no legal support for the relief requested from the Discharge Order and
23 resulting injunction under 11 USC § 524. None exists. However, Debtor has no objection to
24 Creditor collecting, directly from the insurance carrier, the policy limits of her insurance policy.
25 Debtor objects to any relief that would exist Nunc pro tunc or that might otherwise authorize
26 Creditor to file the state court lawsuit on the pre-petition claim, continue the lawsuit despite the

1 Discharge Injunction, serving discovery request and rejecting multiple offers to settle the state
2 court wrongful death case for Ms. Blackwell's policy limits. Those actions and inactions on the
3 part of Creditor are intentional violations of the Bankruptcy Court's discharge Order and
4 Injunction and should be addressed in this court.

5 **Conclusion**

6 The case should be reopened and remain open in order to address a future motion for
7 Contempt and action addressing Creditor's violation of the discharge injunction. The motion for
8 relief from stay is unnecessary because the Automatic Stay terminated automatically upon entry
9 of the discharge order in this case. The motion for relief from the discharge order is
10 inappropriate because the insurance carrier is prepared to tender policy limits. Finally, nothing
11 in the Creditor's motion suggests that Creditor plans to dismiss the Debtor with prejudice and
12 without costs or attorney fees as part of its requested relief.

13 Dated this 25th November, 2022.

14 JORDAN RAMIS PC

15
16 By: /s/ Russell D. Garrett
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18 Attorneys for Cynthia Elizabeth Blackwell

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DATED: November 25, 2022.

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